

# 2015-UNAT-581, Selim

## UNAT Held or UNDT Pronouncements

UNAT held that the additional documents filed by the Appellant were inadmissible in that they were not relevant to the central issue in the present case. UNAT held that UNDT was correct in finding that the Appellant failed to identify a specific decision that had a direct and adverse impact on his contractual rights and thus did not identify an administrative decision capable of being reviewed. UNAT held that UNDT was correct in concluding that there was no evidence of the Appellant having requested management evaluation of any administrative decision, nor any evidence of having submitted acclaim to the Advisory Board on Compensation Claims (ABCC). UNAT rejected the Appellant's argument that UNDT did not consider documents he had filed. UNAT held that UNDT correctly observed that, even if it had been able to find the impugned decision, the Appellant had not been able to show that he had requested management evaluation of that or any other administrative decision. UNAT held that the Appellant's argument that human resources and the Ombudsman were responsible for submitting his claim and should have referred his case to the ABCC had no legal basis. UNAT held that UNDT did not err in concluding that, since the Appellant had failed to submit a claim to the ABCC, UNDT had no jurisdiction to consider his claim for compensation for work-related injuries. UNAT held that it was satisfied that UNDT's conclusions were fully consistent with the jurisprudence of UNAT and with the evidence on record. UNAT held that the Appellant failed to establish that UNDT failed to exercise the jurisdiction vested in it or committed any error of law, fact, or procedure. UNAT dismissed the appeal and affirmed the UNDT judgment.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decisions or absence of decisions relating to his remuneration, compensation for workplace injury, and his desire to be reassigned to a less difficult duty station. UNDT found the application was not receivable.

## Legal Principle(s)

A statutory burden is on the staff member to establish that an administrative decision in issue was in non-compliance with the terms of his appointment or his contract of employment; such a burden cannot be met where the applicant fails to identify an administrative decision capable of being reviewed. A timely request for management evaluation is a mandatory first step in the appeal process and, in the absence of this administrative review, an application to UNDT is not receivable *ratione materiae*. Staff members have to ensure that they are aware of the Staff Regulations and Rules and the applicable procedures in the context of the administration of justice in the UN internal justice system; ignorance cannot be invoked as an excuse for missing deadlines.

## Outcome

Appeal dismissed on merits

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Selim

## Entity

MONUC

## Case Number(s)

2014-676

## Tribunal

UNAT

## Registry

New York

## Date of Judgement

30 Oct 2015

## Language of Judgment

English

French

## Issuance Type

Judgment

## Categories/Subcategories

TEST -Rename- Benefits and entitlements-45

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

Jurisdiction / receivability (UNDT or first instance)

Management Evaluation

Subject matter (ratione materiae)

## Applicable Law

Staff Rules

- Appendix D

UNAT RoP

- Article 10.1

UNDT Statute

- Article 8

UNAT Statute

- Article 2.1(a)

## Related Judgments and Orders

UNDT/2014/125

2015-UNAT-557

2015-UNAT-538

2015-UNAT-521

2013-UNAT-300

2013-UNAT-299

2013-UNAT-296

2012-UNAT-273

2014-UNAT-405

2010-UNAT-058

2014-UNAT-419